

AN EMPIRICAL STUDY OF THE IMPACT OF  
THE PERSONAL DATA (PRIVACY) ORDINANCE  
ON HUMAN RESOURCE MANAGEMENT

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## ABSTRACT

The Personal Data (Privacy) Ordinance (the Ordinance) was enacted on 3 August 1995 and came into force on 20 December 1996. The Ordinance protects the individual's right to personal data privacy and safeguards the flow of personal data to Hong Kong from restrictions by countries that already have data protection laws.

This study reviews the events that led to the enactment of the Ordinance and gives an overview of the provisions of the Ordinance. It presents the survey results regarding the banking industry's compliance level with the Ordinance in the human resource aspect. This survey result is compared with a similar survey conducted in the United States in 1995.

This study also summarizes and examines the actions that the Privacy Commissioner's Office (PCO) and the Hong Kong Institute of Human Resource Management (IHRM) have taken in promoting the Ordinance and in assisting human resource practitioners in complying with the provisions of the Ordinance. It also attempts to analyze the reasons for non-compliance and gives recommendations to the PCO, IHRM and human resource practitioners regarding actions that they can take in order to raise compliance level.

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## LIST OF ABBREVIATIONS

EU	European Union
IHRM	Hong Kong Institute of Human Resource Management
LRC	Law Reform Commission
OECD	Organization for Economic Co-operation and Development
PCO	Privacy Commissioner's Office



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## CHAPTER I

### INTRODUCTION

The Personal Data (Privacy) Ordinance (the Ordinance) was enacted on 3 August 1995 and came into force on 20 December 1996. The purpose of the Ordinance is to protect the individual's right to privacy with respect to personal data. It also contributes to Hong Kong's continued economic well being by safeguarding the flow of personal data to Hong Kong from restrictions by countries that already have data protection laws.

The Ordinance sets out six data protection principles. It applies to all persons in both private and public sectors who control the collection, holding, processing, disclosure, transfer or use of personal data. It covers any data, in both manual and computerized forms, relating directly or indirectly to an individual; from which the individual can be directly or indirectly identified; and in a form in which access to or processing of the data is practicable.

The Ordinance establishes the Privacy Commissioner's Office (PCO), an independent statutory body, to promote and enforce compliance with provisions of the Ordinance. The PCO's mission is to secure the protection of privacy of the individual with respect to personal data through promotion, monitoring and supervision of compliance with the Ordinance.

The Ordinance has far-reaching implications for many areas of most



organizations' business operations. One such area is human resource management. Human resource practitioners who collect, hold, process or use employment-related personal data should comply with the requirements of the Ordinance.

The Hong Kong Institute of Human Resource Management (IHRM), with more than 2,700 members, is one of the most important human resource professional bodies in Hong Kong. IHRM's mission is to maintain, develop and enhance professional standards in human resource management. As such, it should play an important role in assisting human resource practitioners with their understanding and implementation of the relevant requirements of the Ordinance.

The Ordinance has been enacted for more than two years and it has come into force for more than one year. The objectives of this study are to ascertain how well have human resource practitioners complied with the Ordinance and to study the dynamics among human resource practitioners and the PCO and IHRM in achieving the ultimate target - all Hong Kong companies comply with the Ordinance. In particular, we would like to study:

- the actions that the PCO has taken in promoting the Ordinance and in monitoring the compliance of the Ordinance;
- the actions that IHRM has taken in assisting human resource practitioners in understanding and complying with the Ordinance;
- human resource practitioners awareness level of the Ordinance and its implications on their profession;
- the actions that human resource practitioners have taken to comply with the Ordinance;
- the obstacles that human resource practitioners are facing in complying

with the Ordinance.

Chapter II gives an overview of the data protection law in the United States and summarizes the findings of a survey of privacy in the workplace in the United States. Chapter III lists the events that led to the enactment of the Ordinance and gives an overview of the Ordinance. Chapter IV explains the methodology employed in this study. Chapter V presents the five interview results. The results are analyzed in Chapter VI. Chapter VII gives the recommendation. Limitations of this study are discussed in Chapter VIII. Chapter IX draws the conclusions of this study.

## CHAPTER II

### LITERATURE REVIEW

This chapter gives an overview of the data protection law in the United States (Privacy Protection Act) and summarizes the findings of a research survey of privacy in the workplace in the United States.

#### Privacy Protection Act

In the United States, the Privacy Protection Act was adopted in 1974 to establish strict controls over the collection, control, and disclosure of employment related information on applicants and employees.<sup>1</sup> The Act regulates only the public sector and does not require compliance by private sector employers except those doing business with the federal government. The Act also establishes the Privacy Protection Commission to determine if the private sector should be covered by the Act. The Commission's 1977 report conclusion was to exempt the private sector. However, the commission urged the private employers to voluntarily follow the following guidelines in handling employee's personal data:<sup>2</sup>

- Review employment and personnel record-keeping practices periodically.
- Keep records current to ensure their accuracy.

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<sup>1</sup>Joseph D. Levesque, Complete Manual for Recruiting, Hiring, and Retaining Quality Employees (New Jersey: Prentice Hall, 1996), 349.

<sup>2</sup>Ibid.

- Allow employees to inspect their files and when appropriate, correct inaccurate information.
- Inform employees about the type of information kept on file, how they are used, and disclosure practices to government.
- Limit information collected only to what would be relevant to employment decision making.
- Keep sensitive material such as medical records and investigations apart from the primary personnel file.
- Limit the internal use and exposure of personal information to only those that have a need to know.
- Limit external disclosure of employee information in the absence of the employee's authorization.

### A Survey of Privacy in the Workplace

Professor David F. Linowes, former Chairman of the Privacy Protection Commission, conducted a comprehensive survey on 84 Fortune 500 corporations in 1995 to determine the extent to which the largest industrial corporations of America have policies safeguarding the personal information they collect and maintain about their employees.<sup>3</sup> This study revealed that, eighteen years after the Privacy Protection Commission submitted its recommendations, too many of the nation's largest corporations still did not have adequate policies to protect sensitive confidential employee data from possible abuse. Since major corporations are standard setters of

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<sup>3</sup>David F. Linowes and Ray C. Spencer, "How Employers Handle Employee Personal Information: Report of a Recent Survey," Employee Rights and Employment Policy Journal 1, no. 1 (Fall 1997): 153-172.



business practices, Linowes believes that the impact of the policies described in the survey goes well beyond the Fortune 500 corporations.

Linowes' survey found that only 58% of the respondents have designated an executive-level person to be responsible for maintaining privacy safeguards in employment record-keeping practices. The same percentage of corporations have a policy for conducting periodic evaluations of their personnel record-keeping systems. Within the past two years, only half of the respondents had conducted a systematic evaluation of their existing personnel record-keeping practices with particular attention to confidentiality safeguards.

The survey also revealed that while most corporations (92%) give employees access to personnel records, only 76% of them allow employees to place corrections in their personnel records. Besides, only 62% of the respondents inform their staff of the types of records maintained and how they are used. Nine out of ten (93%) companies obtain written permission from the individual when seeking information about him from a third party.

Seventy percent of the corporations have a policy concerning which records are routinely disclosed to inquiries from government agencies. Moreover, 70% of the respondents disclose personal information to credit grantors; almost half (47%) disclose it to landlords; and 19% give the data to charitable organizations.

Eighty-five percent of the companies do not require the collection of arrest records of personnel. Over half (54%) require information on convictions. Thirty-five percent of the respondents use medical records about personnel in making employment-related decisions. One in ten (10%) does not inform the employee of such use.

Linowes concluded that although employers may be aware that tight policies regarding personal files are needed, not much has changed during the past two decades. Linowes believed that adequate universal information privacy safeguards can only be achieved by the enactment of public policy legislation by the Congress.

Linowes did not attempt to investigate the reasons, besides the lack of law enforcement on the private sector, why the respondents were reluctant to comply with the Privacy Protection Commission's recommendations.

## CHAPTER III

### PERSONAL DATA (PRIVACY) ORDINANCE

This chapter gives a summary of the events that led to the enactment of the Ordinance and an overview of the Ordinance.

#### Events that Led to the Enactment of the Ordinance

The 1980s saw rapid development of information technology that facilitates the ready collection, holding, processing, disclosure and transfer of vast amounts of personal data. This led to the concern of the security of personal data and the consequences when there was a lack of it. Statutory control was required to ensure that personal data privacy would be properly protected.<sup>4</sup>

Apart from being a privacy issue, the protection of personal data was also a trade issue. By 1994, 27 jurisdictions had data protection laws.<sup>5</sup> There was increasing concern within the international community regarding export of personal data to other places that did not have adequate protection for personal data. The developing trend was that countries with data protection laws would restrict transfer of data to countries lacking adequate data protection. Article 25(1) of the European Union (EU) Data Protection Directive, which will take force 24 October 1998, obliges EU Member States to ensure that personal data may only be transferred to a third

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<sup>4</sup>Law Reform Commission of Hong Kong, Report on Reform of the Law Relating to the Protection of Personal Data (Topic 27) (Hong Kong: Government Printer, 1994), 7-11.

<sup>5</sup>*Ibid.*, 12-14.

country outside the EU provided that country ensures an adequate level of protection.<sup>6</sup>

Restrictions on the free flow of personal data to Hong Kong could adversely affect its status as an international trading center. Hong Kong's ability to secure its role as an international trading center would largely depend on the existence of legislation that provides an adequate level of protection to information privacy.

In 1988 the Hong Kong government issued, with the approval of the Executive Council, a booklet entitled "Data Protection Principles and Guidelines" to major computer users in the private sector. A circular memorandum was also issued to government departments and agencies. The government had accepted that data protection should be introduced.<sup>7</sup>

On 11 October 1989, the Attorney General and the Chief Justice referred to the Law Reform Commission (LRC) for consideration the subject of "privacy."<sup>8</sup> "Privacy" is the interest of the person in controlling the information held by others about him, or "information privacy." The LRC appointed a sub-committee to examine the state of legal protection and to make recommendations. The sub-committee reviewed the relevant legal and specialist literature. It publicly released its interim proposals in a Consultative Document on 17 March 1993 and sought submissions from interested parties. The consultative process elicited 82 submissions on the consultative document from organizations or individuals. IHRM and Association of Banks were among those who commented on the Consultative

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<sup>6</sup>Ibid.

<sup>7</sup>Ibid., 64.

<sup>8</sup>Ibid., 1-5.



document.<sup>9</sup> The submissions were considered in detail and were used to refine the proposed scheme of data protection. The sub-committee's final report was presented to the LRC for discussion at its meeting on 24 May 1994.

The LRC published its recommendations in its "Report on Reform of the Law Relating to the Protection of Personal Data." It concluded that the effective protection of information privacy was essential for Hong Kong and that this required legislative intervention. The LRC recommended that the internationally agreed data protection guidelines be given statutory force in both the public and private sectors.<sup>10</sup> It also recommended the adoption of the data protection principles as set out in the Organization for Economic Co-operation and Development ("OECD") Guidelines as it represented an international consensus on the appropriate standards.<sup>11</sup>

### An Overview of the Ordinance

The Ordinance adopted many recommendations made by LRC. It is an ordinance "to protect the privacy of individuals in relation to personal data, and to provide for matters incidental thereto or connected therewith."<sup>12</sup> The Ordinance completed its passage through the Legislative Council on 27 July 1995 and was enacted on 3 August 1995. It was then brought into force on 20 December 1996.<sup>13</sup>

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<sup>9</sup>Ibid., 242-243.

<sup>10</sup>Ibid., 66.

<sup>11</sup>Ibid., 70.

<sup>12</sup>Personal Data (Privacy) Ordinance (Chapter 486) (Hong Kong: The Government Printer, No. 81 of 1995), 5.

<sup>13</sup>Office of the Privacy Commissioner for Personal Data, Personal Data Privacy, Personal Data (Privacy) Ordinance: A Guide for Data Users - No.1 (Hong Kong: Office of the Privacy Commissioner for Personal Data, 1997).

The Ordinance covers any data relating directly or indirectly to an individual (data subject), from which it is practical to ascertain the identity of the individual and which are in a form in which access or processing is practicable. It applies to any person (data user) that controls the collection, holding, processing or use of personal data.<sup>14</sup>

Schedule 1 of the Ordinance sets out six data protection principles. They are:<sup>15</sup>

- Principle 1 - Purpose and manner of collection of personal data.

Personal data should be collected lawfully and fairly. This principle sets out the information a data user must give to a data subject when collecting personal data from that subject.

- Principle 2 - Accuracy and duration of retention of personal data.

Personal data should be accurate, up-to-date and kept no longer than necessary.

- Principle 3 - Use of personal data.

Personal data should only be used for the purposes for which they were collected or a directly related purpose unless the data subject gives consent.

- Principle 4 - Security of personal data.

Appropriate security measures should be applied to personal data.

- Principle 5 - Information to be generally available.

Data users should be open about their policies and practices in relation to personal data, the kinds of personal data they hold and the main purposes for which personal data are used.

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<sup>14</sup>Ibid.

<sup>15</sup>Personal Data Privacy.

- Principle 6 - Access to personal data.

Data subjects have rights of access to and correction of their personal data.

The Ordinance covers employment-related personal data under data users' control. This includes the provisions of the Ordinance requiring data users to provide access to personal data held by them. However, Part VIII of the Ordinance provides for the following exemptions from the right of subject access for employment-related personal data:

- personal data related to staff planning;
- employment-related personal data of current employees provided prior to 20 December 1996 on a basis that the data subject would not have access. This exemption expires on 3 August 2002;
- personal data generated by evaluative processes, including a recruitment or promotion exercise, prior to the completion of the process;
- personal references for appointments up to the time when the positions are filled.

Part IX of the Ordinance stipulates offenses and compensation. For example, non-compliance with an enforcement notice served by the Privacy Commissioner carries a penalty of a fine at Level 5 and imprisonment for two years. An individual who suffers damage due to a contravention of the Ordinance in relation to his personal data can seek compensation from the data user.

The Ordinance establishes the Office of the Privacy Commissioner for Personal Data, an independent statutory office, to enforce and promote compliance with provisions of the Ordinance.<sup>16</sup> The Privacy Commissioner's functions and

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<sup>16</sup>Privacy Ordinance, s. 5.

powers include:<sup>17</sup>

- promote awareness and understanding of the Ordinance's requirements;
- promote and assist bodies representing data users to prepare codes of practice for guidance in complying with the provisions of the Ordinance;
- monitor and supervise compliance with the provisions of the Ordinance;
- inspect personal data systems and make recommendations for compliance with the Ordinance;
- investigate suspected breaches of the Ordinance's provisions and issue enforcement notices to data users requiring compliance with the Ordinance.

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<sup>17</sup>Ibid., s. 8.



## CHAPTER IV

### METHODOLOGY

This study uses personal interview as the principal method of gathering information regarding Hong Kong companies' compliance level with the Ordinance and actions that PCO and IHRM have taken. Personal interviews are powerful and effective tools in collecting information about the interviewees' opinions, attitudes and reasons for behavior.<sup>18</sup> Three sets of questionnaires were prepared. Appendix A, Appendix B and Appendix C show the questionnaires for the PCO, IHRM and human resource managers, respectively.

This study focuses on the banking industry's compliance with the Ordinance. The banking industry represents an important business sector in Hong Kong. According to Hong Kong's 1997 Year Book, approximately 12% of the workforce worked in the finance, insurance, real estate and business services sector. Besides, Hong Kong is one of the leading financial centers in the world. This is supported by the following statistics:<sup>19</sup>

- some 368 authorized institutions and local representative offices of banks from more than 40 countries conduct business in Hong Kong and 80 of the world's top 100 banks have a presence here under the Banking Ordinance;

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<sup>18</sup>Fred N. Kerlinger, *Foundations of Behavioral Research*, 3d ed., (Florida: Harcourt Brace College Publishers, 1992), 378-380.

<sup>19</sup>Hong Kong Government, *1997 Hong Kong* (Hong Kong: Hong Kong Government, 70-72.

- Hong Kong had 177 licensed banks at the end of December 1997;
- banking sector's external assets are the fourth largest in the world;
- Hong Kong was the fifth-largest center for foreign exchange trading in 1996;
- Hong Kong's stock market is the second-largest in Asia and the tenth-largest in the world.

A list of 177 licensed banks in Hong Kong was obtained from Association of Banks. A random sample of three of these companies was selected for the study. They were Bank X, Y and Z. Telephone calls were made to these banks' head of human resource during 26-27 January 1998 requesting their permission for an interview. Follow-up calls were made during 2-6 February 1998.

The Personnel Manager of Bank X turned down the request for an interview as he was too busy. Bank Y turned down the request and explained that the privacy issue was too sensitive and she could not disclose the bank's practice. Bank Z also turned down the request and added that it was not her bank's practice to do interviews.

In view of the negative responses and the sensitivity of the privacy issue, the authors decided to discard the random sampling method. Instead, referrals were used to obtain three human resource practitioners' consent to do an interview. All these three interviewees worked in the banking industry and requested to remain anonymous. The fact that one of the authors know the interviewees either directly or indirectly, and that the interviewees remain anonymous, will encourage them to respond more honestly and frankly.

An interview with a Senior Human Resource Officer of Bank A, which employs approximately 30,000 staff, including 200 human resource personnel, in Hong Kong, was conducted on 14 February 1998. An interview with a Human

Resource Officer of Bank B, which employs approximately 1,800 staff, including 20 human resource personnel, in Hong Kong, was conducted on 28 February 1998. The interview with a Human Resource Officer of Bank C, which employs approximately 50 staff, including 1.5 human resource personnel, in Hong Kong, was conducted on 9 March 1998.

An interview with Ms. Cecilia Or, Senior Personal Data Officer (Promotion) from the PCO, was conducted on 7 March 1998. Another interview with Ms. Wendy So, Research and Business Development Manager of IHRM, was conducted on 21 February 1998.

The questionnaire was sent to the interviewees one week in advance. All interviews were conducted by both authors and in Cantonese.

For evaluation of the three banks' compliance level with the Ordinance, we have given each bank zero to five marks in each of the 11 human resource activities. A mark of zero represents no compliance while a mark of five represents full compliance.



## CHAPTER V

### RESULTS

This chapter presents five interview results - Ms. Cecilia Or, Senior Personal Data Officer (Promotion) from the PCO, Ms. Wendy So, Research and Business Development Manager from IHRM, and three human resource practitioners from Bank A, Bank B, and Bank C.

#### Privacy Commissioner's Office (PCO)<sup>20</sup>

Mr. Stephen Lau Ka-men's appointment as the Privacy Commissioner took effect from 1 August 1996. He regarded the launching of a promotion and public education program as one of his top priorities. The PCO's promotional efforts aims at raising the awareness of the general public of their rights as individuals under the Ordinance and at raising the awareness of organizations of their obligations as data users under the Ordinance.

The PCO adopted a two-pronged approach to its promotion activities - tried to reach out to the public through a mass media campaign and established partnership with private sector representative bodies in promoting preparation for compliance with the Ordinance.

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<sup>20</sup>Cecilia Or, interview by authors, transcript, Hong Kong, 7 March 1998; Office of the Privacy Commissioner for Personal Data, Annual Report 1996-97 (Hong Kong: Office of the Privacy Commissioner for Personal Data, 1997).



The PCO commissioned the production of television and radio “Announcements of Public Interests” which has been airing repeatedly on all local television and radio stations. The PCO has produced posters that convey the importance of protecting personal data privacy. Besides, it has also produced a leaflet entitled “Personal Information: Your Privacy Rights Explained” for individuals explaining their rights under the Ordinance and the role of the PCO in answering enquiries and handling complaints from them. The PCO has also set up an internet website through which the public can access information on the Ordinance and its work. Moreover, the PCO seeks to raise the general public’s awareness through the mass media with regular press release on its work, participation in television and radio programs addressing privacy-related issues, and by responding quickly and fully to media enquiries.

As the Ordinance is still relatively new and that it is written in very broad, legalistic terms, the PCO sees the need to issue more specific guidelines to data users. The PCO has issued three guides targeted at organizations. They were: “Personal Data (Privacy) Ordinance - A Guide for Data Users - No.1” which gives an overview of the Ordinance; “Compliance with Data Access and Correction Requests - A Guide for Data Users - No.2” which explains Part V of the Ordinance; “Outline Action Plan for Complying with the Data Protection Principles - A Guide for Data Users - No.3” which provides an action plan that data users can follow in order to comply with the six Data Protection Principles.

Besides issuing the above-mentioned guides, the PCO has also issued three fact sheets targeted at particular sectors or functions. The three fact sheets were: “Fact Sheet No.1 - Transfer of Personal Data Outside Hong Kong: Some Common

Questions”; “Fact Sheet No.2 - Human Resources Management: Some Common Questions”; “Fact Sheet No.3 - Personal Data Privacy: Guidelines on Cold-Calling.”

The PCO has direct contact with private sector representative bodies’ and major public sector’s data users to assist them in complying with the Ordinance. Among them were Hong Kong Association of Banks and IHRM. In addition, the PCO staff have attended and given presentations in privacy-related seminars arranged by different representative bodies, including both Hong Kong Association of Banks and IHRM. The PCO has also commissioned Radio Television Hong Kong to produce an introductory training video to assist data users in complying with the Ordinance.

In order to provide practical guidance for compliance with the provisions of the Ordinance, the PCO has issued two Codes of Practice - “Code of Practice on the Identity Card Number and Other Personal Identifiers” and “Code of Practice on Consumer Credit Data.”

Many organizations have asked the PCO directly to review their privacy-related human resource policies and practices. The PCO has reviewed these policies and given their advice and opinions. Besides asking for policy review, many organizations have also asked the PCO to provide individual training sessions to their staff. Due to the constraints on manpower resources, the PCO usually decline such requests. Instead, the PCO believes that the development of a partnership relationship with bodies representing data users would be a more efficient and effective alternative.

The PCO has been working very closely with IHRM to promote understanding and compliance with the provisions of the Ordinance among human resource



practitioners. The PCO, IHRM and Hong Kong Economic Times have jointly organized two seminars introducing the provisions of the Ordinance to human resource practitioners in 1997. Upon the request of IHRM, the PCO has also reviewed and commented on its "Guidelines on Personal Data Privacy" draft copy during the preparatory stage. The PCO appreciates IHRM's effort in issuing guidelines to human resource practitioners and employers.

The PCO and IHRM will organize regular training to human resource practitioners starting April 1998. Besides, the PCO is planning to form a Privacy Officers Club where Privacy Officers from different companies can gather and share their experiences in complying with the Ordinance. The PCO is also planning to issue Code of Practice on human resource management in 1998-99. This Code of Practice will give more specific and statutory enforcement on the application of the Ordinance to the provision of human resource management.

The PCO admitted that it has not spent much effort in monitoring and supervising data users' compliance with the provisions of the Ordinance due to the lack of manpower resources. However, the PCO is planning to do more proactive monitoring and checking in 1998.

From the enquiries and complaints that it has received, the PCO thinks that there are certain areas where some human resource practitioners are not complying with the provisions of the Ordinance. In the area of recruitment, the PCO thinks that there are still too many blind advertisements where the employer does not identify themselves. The PCO advises companies that need to place blind advertisements to refer the recruitment to personnel agencies so that applicants can at least know who has collected their personal data. Besides the placement of blind advertisements,

some companies give references regarding their former employees to other companies without seeking the former employees' consent.

The PCO finds that data access request is another area that is not being well complied with. Many companies still deny their former employee's request to gain access to his own personnel file. Another problematic area is that employers send their former employee's personal data, including name and identity card number, through facsimile to their business partners stating that the subject personnel is no longer with the company. The PCO considers this type of dissemination of personal data not secure. If a company really needs to do so, the PCO recommends that it should send the person's name to its business partners by a confidential letter.

The PCO commissioned the Social Sciences Research Center of the University of Hong Kong to conduct a baseline opinion survey on personal data privacy attitudes and awareness among individuals and organizations. The survey indicated relatively high level of awareness of the Ordinance, particularly among organizations. The PCO believes that the general public's and organizations' awareness of and compliance with the Ordinance has been increasing since the time of enactment of the Ordinance two and a half years ago. However, the PCO is aware that it should provide more specific guidance material on compliance for organizations.

Due to the lack of manpower resources, the PCO admitted that it has not inspected public and private sectors' personal data systems adequately. Due to the seriousness of two complaints that it received, the PCO has inspected two organizations' personal data systems and issued enforcement notices. These two organizations did follow the PCO's recommendations. The PCO has not made any prosecution to date.

Any individual who suspects that his privacy rights relating to personal data are being abused can lodge a complaint with the PCO. A complaint must be made in writing giving the complainant's contact details and full particulars of the case. This can be done by using the PCO's standard complaint form. Complainants who wish to seek help can visit the PCO in person and its staff will assist him in completing the complaint form. Information provided by the complainant will be handled in strict confidence. The complainant can also choose if he wants his identity to be disclosed to the party complained against. The PCO admits that if the complainant does not want to disclose his identity, it will make the investigations more difficult. However, the PCO adds that not many complainants opted for the non-disclosure alternative. During 20 December 1996 to 3 March 1998, the PCO has received 275 complaints, of which 35 are related to employment records.

The PCO believes that personal references, recruitment and access request of employee records are the three human resource activities that are impacted most by the Ordinance. These are also the three areas where compliance level are relatively low. On the other hand, disciplinary records, exit interview, and training and development are the three human resource activities that are impacted least by the Ordinance.

The PCO has been operational since December 1996; it believes that its effectiveness in promoting the Ordinance has been increasing. However, it is concerned about its ability to undertake more proactive operational functions given its constraints on manpower resources.



The Hong Kong Institute of Human Resource Management (IHRM)<sup>21</sup>

IHRM welcomes the implementation of the Ordinance and believes that Hong Kong does need such an Ordinance. As the protection of privacy has been observed by many other developed countries, Hong Kong needs to enforce such laws so that it can live up to its status of being an international business center. Besides, IHRM considers the protection of privacy as part of employee relation and an important part of management ethics.

In light of the importance of the protection of privacy, IHRM established a Data Protection Committee in 1991 to closely monitor the development of the Ordinance. IHRM was one of the 82 organizations who submitted comments to the Law Reform Commission during the consultative process in 1993.

IHRM has been trying to assist its members to understand and comply with the Ordinance. In early 1996, it published a book called "The Legal Control of Personal Data in Hong Kong" which attempts to explain the Ordinance and the six Data Protection Principles in non-legalistic terms. This book also presents practical case studies of the application of the Ordinance on the human resource profession. Before the publication of this book, IHRM has sent the draft copy to PCO for its review and comments.

IHRM saw the need to prepare guidelines for its members, human resource practitioners and employers from the human resource perspective. Therefore, instead of taking the Data Protection Principles approach, IHRM tried to explain the application of the Ordinance on 11 human resource activities - recruitment and

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<sup>21</sup>Wendy So, interview by authors, transcript, Hong Kong, 21 February 1998; Hong Kong Institute of Human Resource Management, Guidelines on Personal Data Privacy (Hong Kong: Hong Kong Institute of Human Resource Management, 1997).

selection, references, employee records, data relating to ex-employees, training and development, compensation and benefits, data storage and security, data transfer and transmission, appraisal and potential assessment, disciplinary records, and exit interview. IHRM has sought input from PCO during the preparation of this guideline - "Guidelines on Personal Data Privacy."

IHRM has been working very closely with PCO in organizing seminars introducing the provisions of the Ordinance to human resource practitioners in 1997. IHRM and PCO will jointly organize more training programs targeted at human resource practitioners in 1998.

The guidelines and seminars are well-received by IHRM's members. But some members did comment that certain guidelines are too broad and general, not specific enough. However, it is IHRM's intention to keep the guidelines broad so that human resource professionals can make their own judgment in different situations.

IHRM has received many enquiries from its members regarding the Ordinance. In particular, its members have concerns regarding personal data related to recruitment, unsuccessful applicants and data access request. Besides, some of its members have sent their organizations' human resource policies and practices to IHRM and asked for its review and comment. IHRM tries its best to answer members' queries; it also tries to give advice to those organizations which send in their human resource policies.

IHRM believes that recruitment, personal references and access request of employee records are the three human resource activities that are impacted most by the Ordinance. These are also the three areas where compliance level are



comparatively low. The three human resource activities that are impacted least by the Ordinance are exit interview, appraisal, and disciplinary records.

IHRM believes that the general public's and organization's awareness of and compliance with the Ordinance has been increasing since the time of enactment of the Ordinance two and a half years ago. However, some human resource practitioners do face obstacles in the implementation of the Ordinance. First, the implementation of the Ordinance requires additional manpower resources to understand the Ordinance, review the existing policies and practices, and design new practices and systems to meet the Ordinance requirements. Second, some human resource practitioners find it difficult to convince their senior management to implement the Ordinance. Some employers think that the implementation of the Ordinance will not increase the companies' profit, thus, reluctant to spend effort and resources to comply with the Ordinance. Others adopt a passive approach and will not start complying with the Ordinance until they receive complaints from employees or enforcement notices from the PCO.

IHRM realized that the PCO has spent much effort in promoting awareness and understanding of the provisions of the Ordinance. Besides, the PCO has been very helpful and supportive of the initiatives that IHRM took in assisting its members to understand the Ordinance requirements. However, IHRM thinks that it would be very helpful to its members if the PCO could issue code of practice for the human resource profession.

When asked to rate its performance with regards to promoting and giving guidance to its members, IHRM stated that it was not appropriate for it to do so. However, IHRM added that it has received positive feedback from its members for the



work it has done in assisting its members to understand the Ordinance.

### Bank A<sup>22</sup>

Bank A keeps a low profile in communicating its personal data privacy policy to its employees and prospective employees. It believes that it has already incorporated adequate and appropriate policies regarding the compliance of the Ordinance prior to its enactment. Therefore, there have not been many changes in its policies following the enactment of the Ordinance. It has notified all staff that the Ordinance has been enacted in December 1996. Besides, new guidelines were developed on issuing employment reference, fee schedule for access to personal records and local staff medical benefits scheme. These will be discussed in the following relevant sections.

### Recruitment and Selection

Bank A does not use blind advertisements. Personal data that it seeks from applicants include education, work experience and skills (Appendix D). To comply with the Ordinance, Bank A adds in its advertisements a few sentences:

Data held by the Bank relating to employment applications will be kept confidential and used only for processing applications. . . . The Bank will retain their applications for a maximum period of one year and may refer suitable applicants to other vacancies within the Group.

When the shortlisted applicants come to Bank A for interviews, they have to complete a Job Application Form (Appendix E). Information regarding personal particulars, academic qualifications, working experience, members of immediate family particularly whether their jobs will cause conflict of interest, sources of

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<sup>22</sup>Anonymous, interview by authors, transcript, Hong Kong, 14 February 1998; Hong Kong.

knowledge about the vacancies, criminal record, expected salary and date available to report for duty are required. After the enactment of the Ordinance, Bank A has not changed the details required for job application but explicitly stated in the Job Application Form that it is the applicants' obligations to supply such data. Otherwise, it will be unable to process the employment applications. In addition, the applicants are required to sign "The Declaration" which is added in the form to ensure the applicants understand that data held by Bank A relating to them will be kept confidential, while under the duty of confidentiality, Bank A may also provide such information to other parts of the group company.

During the job interview, interviewers will record the interview assessment in a Recruitment Appraisal Form (Appendix F) which was changed when the Discrimination Ordinance was enacted. The change is that personal details such as sex, age, identity card number and education level are no longer shown to the interviewers to avoid bias. Bank A keeps using the same form after the enactment of the Privacy Ordinance. Unsuccessful applicants' data and their interview assessment records will be kept for a maximum period of one year.

### References

Bank A has changed its procedures in obtaining reference from its prospective employees' current employers. In the past, Bank A obtained character reference (Appendix G) from a friend nominated by the applicant. The conduct and character of the applicant were required to be addressed in the reference letter. Information of the referee, such as name, address and telephone number, were also required to be provided. Now, Bank A seeks consent (Appendix H) from the applicant prior to

obtaining reference by adopting a new Employment Reference Form (Appendix I).

Regarding issuing employment reference, Bank A has established a new guideline (Appendix J) which states that it will not provide performance reference of its employees to their prospective employers. But in accordance with the Ordinance, performance appraisals can be provided to an employee at his or her request.

### Employee Records

Similar to the Job Application Form, the Employee Personal Record Form (Appendix K) was changed by adding a statement that it is necessary for the employees to supply the bank with personal data. Otherwise the bank is unable to process the employment applications. In addition, the employee is asked to sign “The Declaration” which is added to ensure the employees understand that data held by the bank relating to them will be kept confidential, while under the duty of confidentiality, the bank may provide such information to any other person including a group company. All new employees are requested to complete the form on the first date of their duty. Subsequently, the Data Administrator will input the data into an AS/400 system. He will generate employee details from the system to individual staff on an annual basis and request them to confirm and update the data. Also, he will capture and update employees’ training and development records regularly from their annual appraisal forms. For irregular update, the employees have to fill out the “Notification of Change of Personal Particulars/Qualification Acquirement” (Appendix L) to the Human Resource Department. They are allowed to access their own personal data file free of charge (Appendix M).

### Data Relating to Ex-Employees



Bank A keeps its former employees' personal data as of their last day of employment indefinitely. It is necessary for all Hong Kong companies to keep their employee data for at least seven years in order to fulfill the requirement of the Inland Revenue Department. However, Bank A does not destroy former employees' personal data beyond seven years. Former employees are allowed to access their personal data upon written request at a service charge of \$200 per request, and \$15 per page for copies of document (Appendix M). Bank A has no policy stipulating if it should allow former employees to update their personal records. But it has not received such request yet.

### Training and Development

As Bank A keeps a low profile with respect to the enforcement of the Ordinance, it does not train all its staff about its personal data privacy policy but only issued a 'Notice Relating to the Personal Data (Privacy) Ordinance' (Appendix N) to all staff as a code of practice to ensure that they fully understand the Ordinance. The Notice stated very clearly about the purposes for which the personal data may be used, the situation that the personal data may be transferred, the right of access and update of personal data as well as the name and the address of the Data Administrator. Besides, only line managers and human resource personnel are given information regarding policy changes.

The information to be collected regarding training and development needs in the Performance Appraisal Form (Appendix O) remains unchanged after the enactment of the Ordinance. It is because the data requested are considered necessary and are also being kept confidential.



### Compensation and Benefits

Certain data, including the personal data of the employee, his spouse and his children, in the Employee Record Form will be extracted by the Data Administrator to establish the database of the staff benefits schemes. Further information such as the bank account number, salary and allowance details will also be collected. The personal data and the bank account number will be initiated for change by the employees themselves through the 'Notification of Change of Personal Particulars/Qualification Acquirements'. On the other hand, the salary and allowance details will be updated based on information obtained from Human Resources Department on an annual basis.

### Data Storage and Security

Personal data are stored either in manual files, microfilms or computerized form. Bank A controls access to these manual files and microfilms by storing them in physically locked rooms with restricted entrance by the human resource personnel only. Access control for the data stored in the computer system is effected on a need-to-know basis.

### Data Transfer and Transmission

No new policy regarding data transfer and transmission has been established in response to the Ordinance. In the Employee Record Form, the employees have already been informed of the possible transfer of their personal data to other parts of the group company or other authorized parties. Normally, data transfer in bulk are sent to the Inland Revenue Department for filing annual employee return.

### Appraisal and Potential Assessment

There has been no change regarding the policy of performance appraisal. The same Performance Appraisal Form (Appendix O) is still being used because Bank A considers that the data collected in the Appraisal Form are adequate and non-excessive. No declaration statement has been added. As this is an appraisal form, the employees are implicitly informed of that the collection of data are for performance rating and future career development purposes. In the appraisal process, two managers of the appraisee and himself have to give comments and sign for agreement.

### Disciplinary Records

Disciplinary records are kept in the personal file. Employees are allowed to access to their own disciplinary records, if any, upon written request. In the past, this type of records were kept indefinitely in the bank's database until the following incidence had occurred. At one time, Bank A was requested by a former employee, who resigned due to an unpleasant event, all information in his personal file. However, some sensitive materials that Bank A did not want to disclose were found in the file. Bank A made use of an exemption clause of the Ordinance<sup>23</sup> and did not disclose this piece of information to him. Now, Bank A is reviewing the appropriate policy in this regards.

### Exit Interview

All leavers are invited to attend exit interviews with a human resource personnel, mainly to ask the leavers about their reasons for resignation and their new prospective employment data for statistical analysis. But Bank A will not notify the

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<sup>23</sup>Privacy Ordinance, s. 18(1)(b).

leavers about the purpose for which the information is being collected, and the classes of person to whom the information may be transferred. Moreover, the leavers are not given chances to make comments about another employee for this is not the proper channel by the bank's practice.

#### Others

Bank A believes that it has adequate manpower to cope with the necessary policy changes in order to comply with the Ordinance. Moreover, not much of the current policies has to be changed as most of them have already been very well established.

The additional duties of handling the personal data is rested with the System and Salary Administration Manager. Bank A considers that it is part of the human resource duties to serve the existing employees, it does not think that this is a drain to its manpower resources. But the bank is concerned about the potential increase in request for data by former employees. Hence, it is contemplating to raise the fee schedule in order to discourage former employees' data access request.

Bank A has received the guideline issued by IHRM and found that it is useful. It is IHRM's member, but not an active one. For seeking assistance regarding the Ordinance, Bank A usually turns to Association of Banks, rather than to IHRM and the PCO.

Bank A believes that recruitment and selection, personal references, and appraisal and potential assessment are the three human resource activities that are impacted most by the Ordinance. The three human resource activities that are least impacted are compensation and benefits, data storage and security, and data transfer



and transmission. Bank A considers its compliance level to be 80% at the time of enactment, 85% at the time of enforcement and 90% at present.

Bank A has not yet received any complaints for non-compliance.

### Bank B<sup>24</sup>

Bank B has not made many changes in its personal data privacy policies. However, it has amended the Job Application Form, changed the storage time of unsuccessful applicants' job applications and provided training to the interviewers. It has not communicated the changes it has made in response to the enforcement of the Ordinance to its staff. But it is aware that it should only collect personal information that is required for purposes directly related to its functions and activities. Therefore, no excessive information will be asked.

Bank B is willing to give us samples of its job advertisement, job application form and employment reference only and it rejects to give us other documents for sensitivity reason.

### Recruitment and Selection

Bank B does not use blind advertisements. It seeks from the applicants personal data including education, work experience and skills in its job advertisements (Appendix P). Bank B does not inform the applicants of the purposes for collecting the information and the classes of person to whom the information may be disclosed.

When the shortlisted applicants come to Bank B for interviews, they are required to complete a Job Application Form (Appendix Q). Information regarding

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<sup>24</sup> Anonymous, interview by author, transcript, Hong Kong, 28 February, 1998; Hong Kong.



personal particulars, academic qualifications and achievements, working experience, expected salary and date available to report for duty are required.

Bank B does not require applicants to submit information regarding their marital status, age and their date of birth after the enactment of the Discrimination Ordinance. It does not see the need to revise this practice after the enactment of the Privacy Ordinance. To comply with the Ordinance, Bank B has informed the applicants of the parties to whom their personal data may be transferred. In addition, Bank B has changed the period of retention of unsuccessful application forms from half year to two weeks only. A security guard firm is contracted for disposal of such documents on a bi-weekly basis.

Although the data will be kept confidential by the Bank, it is not explicitly stated in the Job Application Form.

Interview assessments such as written test or interview dates and results are also recorded in the Job Application Form. All such data can be accessed by the applicants upon written request.

### References

There has been no change in the policy of obtaining employment references. Consent from the prospective employees (Appendix R) will be obtained prior to sending the Employment Reference Form (Appendix S) to their past employers.

### Employee Records

There has been no change regarding the policy in this aspect. All employees are required to fill out a Family Data Form supplementary to the Job Application Form. Additional personal data to be collected include data of the contact person in

case of emergency, of the spouse and the children. Bank B has stopped asking about the occupation of the spouse. Instead, it asks if the spouse is working in another bank which will cause conflict of interest.

#### Data Relating to Ex-employees

Bank B keeps personal files of all its former employees for at least seven years in order to meet the statutory requirement of the Inland Revenue Department. It will keep personal files of the former employees who retired and have opted the bank's pension scheme indefinitely and update them annually. For the other employees, it is optional for them to choose whether their personal data are kept indefinitely.

Bank B will not normally update the former employees' records unless the information were voluntarily given by the former employees.

#### Training and Development

Bank B has trained the interviewers regarding the provisions of the Ordinance. It does not plan to train all its staff except for the officers and the management.

#### Compensation and Benefits

There has been no change in Bank B's policy in this aspect.

#### Data Storage and Security

The Personnel Department has an in-house programming system to record and process all the personal data. The system is administered by the Personnel Department and is supported technically by the Management Services Department.

The data are either in diskette and tape or in hard copies. They are kept in the Personnel Department's office and are accessible only by the human resource

personnel. Access to data in the system is strictly controlled by logging password settings on need to know basis. Moreover, operators are allowed only to input data and supervisors are required to check and approve the data before saving it in the system.

#### Data Transfer and Transmission

There is usually internal transfer of personal data from one Branch to another when job rotation or job deployment occur. A clerk of the Personnel Department will prepare the transfer and transmission which must be approved by a supervisor within the Department.

#### Appraisal and Potential Assessment/Disciplinary Records

There has been no change regarding the privacy policy in these aspects. If the employees request for access to their assessment reports and disciplinary records, Bank B usually accepts their requests if they are made in writing.

#### Exit Interview

All leavers are required to attend exit interviews with a human resource personnel. Bank B mainly asks for their reasons for resignation and their comments on the job environment for record purpose. Bank B does not inform the leavers of the purposes of collecting such data and does not tell them about the party to whom their data may be transferred.

#### Others

Bank B feels that it is difficult to ensure all staff will implement the Bank's privacy policies. It does not feel that it is a drain to the Bank's manpower resources



yet. It commented that the situation is better than expected. Not much additional works are required because there have not been many requests for the access to personal data yet. Bank B believes that it may be due to the culture of Chinese who usually dare not to challenge their employers.

Bank B is not a member of IHRM. The two personnel managers themselves are IHRM's members personally. But Bank B still finds the guidelines issued by IHRM very useful. The bank has not yet contacted IHRM. On the other hand, it considers that the PCO is an advisory body and has contacted them several times for clarifying a few minor issues only. For major issues, Bank B relies more on its legal advisors and Association of Banks.

Bank B believes that recruitment and selection, data storage and security, and training and development are the three human resource activities that are impacted most by the Ordinance. On the other hand, compensation and benefits, data related to ex-employees, and appraisal and potential assessment are the three human resource activities that are impacted least by the Ordinance. Bank B considers its compliance level to be 80% at the time of enactment, 100% at the time of enforcement and 100% at present. So far Bank B has not received any complaints from any party for non-compliance.

#### Bank C<sup>25</sup>

Bank C has not implemented any new policies after the enactment of the Ordinance except that it has introduced a new fee schedule for data access request by former employees. When we asked Bank C to provide us copies of document

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<sup>25</sup> Anonymous, interview by authors, transcript, Hong Kong, 9 March, 1998; Hong Kong.



regarding its current policies, we were rejected for Bank C thinks that these information are too sensitive to be disclosed.

### Recruitment and Selection

Bank C does not issue blind advertisements. The information required in their job advertisements include academic qualification, working history, skills and expected salary.

Bank C does not require the shortlisted candidates to fill out application forms before their interviews. Interviewers will take notes regarding the candidate's technical competencies, aptitude, skill set and comments on his personality during the interview. Bank C considers that these information are necessary to facilitate the employment decision. The data of unsuccessful applicants will be destroyed after three months by shredding the documents in-house. The candidates are allowed to access their own personal data upon written request.

### References

Long before the enactment of the Ordinance, Bank C has refrained from giving qualitative comments in reference letters. Only factual data including the name, identity card number, position held and period of employment will be given. To obtain employment reference from past employers of prospective employees, Bank C will send written request for completion of a questionnaire asking for employment data of the prospective employees including performance history.

### Employee Records

There has been no change in the employee record form after the enactment of

the Ordinance. Data including personal particulars, academic and professional attainment, employment history, performance appraisals, sick or annual leave record, tax file number are kept in the personal file.

The human resource officer is the Data Administrator. He will not arrange for regular data update. If any data change is required, the employees are required to send electronic mails to the Human Resource Department for such request.

The employees are allowed to access their own personal data files upon written request free of charge.

#### Data relating to Ex-employee

Bank C keeps its former employees' personal data as of their last day of employment for seven years to fulfill the statutory requirement of the Inland Revenue Department. All data beyond seven years will be deleted from the computer system. Paper files are shredded.

Former employees are allowed to access to their own personal data files at a charge of \$500 per request.

#### Training and Development

Bank C has no intention to train the human resource personnel or other staff. As there is not much change in the policy regarding personal data privacy, Bank C considers that there is nothing to be trained.

#### Compensation and Benefits

There has been no change in the policy in this aspect.

#### Data Storage and Security

There has been no change in the data storage and security mechanism. The personal data are either kept in manual files which are locked in a cabinet inside the office of the Human Resource Department, or computerized form. The data in the system is protected by logging access control. The human resource officer is allowed only to input data and the human resource manager is allowed to authorize the update. There is an offsite backup in diskette for data protection.

#### Data Transfer and Transmission

Normally, the data files are requested by the line managers when new employees are appointed to their department or existing employees are transferred from one department to another. The Human Resource Department keeps a log book to register the in and out of personal records. The Country Manager is required to sign off in the register for proper approval. After use, the records will be returned to the human resource manager who will lock the files back in his office.

#### Appraisal and Potential Assessment

There has been no change in policy regarding handling of appraisal. The supervisor is responsible to assess the performance of his subordinates in a two-way communication channel. The result is recorded in an appraisal form signed by both parties to signify their agreement on the fairness of judgment.

#### Disciplinary Records

There has been no change in this policy. Disciplinary records will be filed in the personal data file after conclusion of the investigation and these will be kept for seven years.

#### Exit Interview



All leavers are requested to complete exit interview questionnaire in the presence of the human resource manager. The questionnaire asks for the reasons for resignation for record purpose. No explanation of the process and the purpose of the exit interview are made to the leavers.

#### Others

Generally, Bank C's human resources manager does not encounter much barrier in implementing the requirements and complying with the provisions of the Ordinance. But sometimes, there is lack of co-operation from data subjects. For instance, they are not willing to provide data required by the human resource manager, thus delaying the process of the human resource activities.

Bank C considers its organization in Hong Kong relatively small. Besides, it thinks that the Ordinance is new, hence, not much has been done to comply with it. Moreover, there has been no pressure from its employees for any change in its policies yet because they are indifferent. So Bank C does not feel that it is a drain to its manpower resources.

Bank C is a member of IHRM. It considers the guidelines issued by IHRM good as a reference. They has not sought assistance from the PCO and IHRM yet.

Bank C considers employee records, data storage and security, and recruitment and selection are the three human resource activities that are impacted most by the Ordinance. On the other hand, Bank C considers exit interview, disciplinary records, and training and development are the three human resource activities that are impacted least by the Ordinance. Bank C considers its compliance level to be 70% at the time of enactment, 70% at the time of enforcement and 90% at present.



Bank C has not yet received any complaints from any party for non-compliance.

CHAPTER VI

ANALYSIS OF RESULTS

In this chapter, we summarize the background of Bank A, B and C. Then we analyze the similarities and differences of their practices in handling personal data, and their comments on the impact of the Ordinance on their human resource activities. Based on the interview results, we will evaluate their compliance level with the Ordinance. Last but not least, we will discuss the dynamics among these banks, the PCO and IHRM.

Overview of Bank A, B and C’s Interview Results

Bank A and C are members of IHRM while Bank B is not (Table 1). Though their organization size are extremely different (Table 1), they have similar practices in handling personal data and share common view regarding the impact of the Ordinance on human resource activities (Table 2 and Table 3).

TABLE 1. -- BANK A, B, AND C’s IHRM MEMBERSHIP AND ORGANIZATION SIZE

	Bank A	Bank B	Bank C
Is a member of IHRM	Yes	No	Yes
Number of staff in Hong Kong office	30,000	1,800	50
Number of human resource personnel in Hong Kong office	200	20	1.5

TABLE 2. -- BANK A, B, AND C's PRACTICES IN HANDLING PERSONAL DATA

	Bank A	Bank B	Bank C
Officers who handle personal data	System & Salaries Admin. Manager	human resource personnel	human resource personnel
Fee for access request by existing employees	Free	Free	Free
Fee for access request by former employees	\$200 / request; \$15/copy	Free	\$500 / request

TABLE 3. -- BANK A, B AND C's COMMENTS

	Bank A	Bank B	Bank C
It is a drain to its manpower resources to implement the provision of the Ordinance	No	No	No
Find IHRM's guideline useful	Yes	Yes	Yes
Human resource activities			
Impacted most by the Ordinance			
Recruitment and Selection	Yes	Yes	Yes
References	Yes		
Employee Records			Yes
Data Relating to Ex-employees			
Training and Development		Yes	
Compensation and Benefits			
Data Storage and Security		Yes	Yes
Data Transfer and Transmission			
Appraisal and Potential Assessment	Yes		
Disciplinary Records			
Exit Interview			
Impacted least by the Ordinance			
Recruitment and Selection			
References			
Employee Records			
Data Relating to Ex-employees		Yes	
Training and Development			Yes
Compensation and Benefits	Yes	Yes	
Data Storage and Security	Yes		
Data Transfer and Transmission	Yes		
Appraisal and Potential Assessment		Yes	
Disciplinary Records			Yes
Exit Interview			Yes

TABLE 3. -- BANK A, B AND C's COMMENTS (Cont'd)

	Bank A	Bank B	Bank C
To resolve privacy issue:			
Rely more on IHRM	No	No	No
Rely more on the PCO	No	No	No
Rely more on Association of Banks	Yes	Yes	-
Rely more on legal advisors	-	Yes	-
Compliance Level			
At the time of enactment	80%	80%	70%
At the time of enforcement	85%	100%	70%
At present	90%	100%	90%

Bank A, B and C have not appointed any new officer to handle personal data privacy but put such additional duties to the system or human resource personnel. Also, they do not charge existing employees for data access request. While Bank B does not levy a fee for data access request by former employees, Bank A and B do. They think that it is not yet a drain to their manpower resources to implement the provision of the Ordinance. They consider the IHRM's guidelines useful, but do not usually rely on IHRM and the PCO regarding major issues on the compliance with the Ordinance. Recruitment and selection, data storage and security are the human resource activities which have been repeatedly selected as impacted most by the Ordinance. Bank A and C view their compliance level with the Ordinance to be 90% at present while Bank B views it to be 100%. All three banks think that their compliance level with the Ordinance has been improving over the time since the enactment of the Ordinance.

Evaluation on Compliance Level

Our evaluation show that Bank A, B and C's compliance level are 85%, 76% and 69% respectively (Table 4). Bank A, B and C have evaluated their present



compliance level with the Ordinance at 90% or above. As compared to our evaluation, all of them have over-estimated themselves.

TABLE 4.-- EVALUATION of BANK A, B AND C's COMPLIANCE LEVEL				
	Bank A	Bank B	Bank C	Average
Eleven human resource activities				
Recruitment and Selection	5	3	3	3.7
References	4	4	4	4.0
Employee Records	4	3	3	3.3
Data Relating to Ex-employees	4	4	3	3.7
Training and Development	3	2	0	1.7
Compensation and Benefits	5	4	4	4.3
Data Storage and Security	5	5	5	5.0
Data Transfer and Transmission	5	5	4	4.7
Appraisal and Potential Assessment	5	5	5	5.0
Disciplinary Records	5	5	5	5.0
Exit Interview	2	2	2	2.0
Total marks	47	42	38	42.4
Average marks	4.3	3.8	3.5	3.8
% on average (compliance level)	85%	76%	69%	77%

We illustrate below the areas that Bank A, B and C require improvement.

Recruitment and Selection

Data Protection Principle 1<sup>26</sup> of the Ordinance stipulated that only personal data that are necessary should be collected. For example, if data users want to ask for information about applicants' criminal records, they should consider whether the job being applied for involves the control of valuable items. Bank A, B and C have complied properly with this principle in job advertising because they ask the applicants to provide information only on education, work experience and skills. However, Bank A and B ask all applicants whether they have a criminal record when

<sup>26</sup>Privacy Ordinance, Schedule 1.

they come for interview. This is apparently excessive because we believe that not all the banks' employment positions involve the control of valuable items.

IHRM's guidelines<sup>27</sup> encourage data users to add a statement on applications and other relevant documents to the effect that the information collected will be strictly confidential and used only for the purpose of selection. Only Bank A is doing very well that it adds in its job advertisements and Job Application Form relevant statements to inform applicants of their data privacy policy. The PCO recommends that unsuccessful applicants' records should be retained for at least one year which is considered as reasonable by IHRM. Only Bank A will retain such data for a year. Bank B retains such data for only two weeks and Bank C for only three months.

### References

We believe that all three banks have developed appropriate policies regarding giving and obtaining employment references. IHRM's guidelines<sup>28</sup> state that recruiters should not seek references from past employers without the specific consent of the candidates. When requesting reference checks, confirmation of facts rather than a request for facts is preferred. All three banks obtain consent from prospective employees prior to requesting reference checks. Bank A confirms facts about candidate's name and his identity card number, employer's name, period of employment and his last position held. But Bank B only confirms the candidate's name and period of employment. However, we think that improvement can be made if Bank A, B and C stop asking about qualitative comments such as performance

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<sup>27</sup>Guidelines on Privacy, 10.

<sup>28</sup>Guidelines on Privacy, 11.

reference.

### Employee Records

Data users should not seek from employees personal data that are excessive<sup>29</sup>.

However, Bank A has asked about the spouse's and children's occupations and employers which we consider excessive. Bank A should first ask whether or not his relatives work in another bank or a business which may cause conflict of interest. Only if the answer is positive would further enquiries be justified.

Data administrators should provide employees on a regular basis with details of the data held on them for the purposes of verification and updating<sup>30</sup>. We think that Bank A is doing very well in this aspect because it is the only one out of the three banks which has annual data confirmation and updating. We believe that Bank B and C who do not initiate regular checking should establish this policy accordingly.

### Data Relating to Ex-employees

Data Protection Principle 2<sup>31</sup> requires that personal data should not be kept for any longer than is necessary. The retention period should at least fulfill statutory requirement. Bank A, B and C do retain the data for at least seven years to fulfill the requirements of the Inland Revenue Department. Whether it should be retained beyond the statutory requirement will depend on whether there is such need or whether there are any public interest reasons. However, we do not see any particular

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<sup>29</sup>Guidelines on Privacy, 12.

<sup>30</sup>Guidelines on Privacy, 12.

<sup>31</sup>Privacy Ordinance, Schedule 1.



reasons for Bank A to retain all former employees' data indefinitely and Bank B to retain the data of the former employees who are not on pension scheme indefinitely.

Data users may impose a fee for complying with a data access request provided it is not excessive.<sup>32</sup> We think that Bank A's charge at \$200 per request plus \$15 per copy is reasonable. Bank B is relatively generous, but Bank C is relatively not considerate to its former employees for it charges them too much at \$500 per request.

### Training and Development

Training on the company policies and procedures regarding data protection should be provided to all levels of staff.<sup>33</sup> Bank A, B and C are not proactive in this regard for they have no such intention. But we think that Bank A is doing better than Bank B and C because it has at least issued a notice to all its staff in December 1996 to inform them of a newly enacted ordinance on privacy. With respect to training on personal data privacy, Bank A and B have only trained the line managers, interviewers, human resource personnel and officers. Bank C even thinks that there is nothing to be trained. We think that their awareness of the importance of compliance with the Ordinance in this area is extremely low and that there are a lot of rooms for improvement.

### Compensation and Benefits

All three banks collect personal data that are sufficient, relevant and not excessive for compensation and benefits. But we think that Bank A is doing better for

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<sup>32</sup>Privacy Ordinance, s. 28(2) and s. 28(3).

<sup>33</sup>IHRM Guidelines on Personal Data Privacy.



it regularly updates individual staff's personal data on an annual basis.

### Data Storage and Security

Bank A, B and C can ensure that data are protected against unauthorized access. Manual files are physically locked. Access to system files are controlled basically on a need-to-know basis.

### Data Transfer and Transmission

Bank A, B and C either disclose data of their employees to the Inland Revenue Department or to other parts of the company. Only Bank A and B has informed the employees of the possible transfer. All three banks properly monitor and approve for the transfer.

### Appraisal and Potential Assessment/Disciplinary Records

Bank A, B and C's appraisal processes incorporate a two-way communication. Employees are allowed to state comments in the appraisal records should they disagree with the evaluation. These records and disciplinary records are accessible upon written request.

### Exit Interview

During the process of exit interviews, Bank A, B and C only focus on collecting data but do not notify the leavers about the purpose for which the information is being collected, and the classes of person to whom the information may be transferred. We think that they should explain these to the employees in the future.

### General

All three banks are aware of the enactment of the Ordinance, but their new company policies regarding personal data privacy are different. Apparently Bank A has done a lot more than Bank B and C, while Bank C has done the least. This shows that Bank A's has the highest compliance level with the Ordinance, nevertheless, there is still room for improvement. Bank C's compliance level is the lowest among the three banks. One possible reason is that it does not fully understand the implications of the Ordinance on human resource activities. Another reason may be it does not feel the pressure to fully comply with the Ordinance.

In our opinion, all three banks are doing very well to comply with the Ordinance with respect to data storage and security, appraisal and disciplinary records. Some room for improvement exists in terms of obtaining references, data transfer and, compensation and benefits. Great improvement is needed in terms of training and exit interview.

All three banks do not encounter many barriers in implementing the Ordinance. None of them has received any complaints yet which may be partly due to the culture of Chinese. Chinese people are submissive and are not used to challenging authorities such as their employers.

#### Dynamics Between the PCO and Human Resource Practitioners

We believe that the PCO has done a good job in promoting the Ordinance to organizations in Hong Kong. This can be seen from the fact that all three banks' human resource practitioners are aware of the Ordinance. However, it seems that these three banks do not fully understand the implication of the provisions of the Ordinance on the human resource profession. All three banks over-rated their

compliance level with the Ordinance. In particular, Bank B and Bank C believe that they have fully or almost fully complied with the Ordinance but we think that their compliance level are still low.

The PCO has produced some guidelines to data users and some of them are targeted at specific industry or functions. In fact, it has issued a Fact Sheet targeted at the human resource profession. However, this Fact Sheet is written in the Data Protection Principle approach. Some human resource practitioners may find it difficult to relate this guideline to their daily human resource activities. The PCO is aware of the need to issue a Code of Practice to the human resource practitioners.

All three banks do not rely heavily on the PCO in seeking advice or assistance; they will rather rely on the Association of Banks. It seems that the PCO does not play a significant role in providing guidance and advice on compliance with the Ordinance to the banking industry.

All three banks do not feel the pressure to fully comply with the Ordinance. One possible reason is that the PCO has not spent much effort in monitoring and supervising data users' compliance with the provisions of the Ordinance. It has not inspected data users' personal data systems adequately. Neither has it made any prosecutions for non-compliance. Thus, data users do not feel there is an urgent need to fully comply with the provisions of the Ordinance. The PCO is aware of this issue and plan to do more proactive monitoring and checking in the future. Another possible reason is that some employees are not aware of their rights under the provisions of the Ordinance.

The PCO believes that personal references, recruitment and access request of employee records are the three human resource activities where compliance level are



relatively low. However, our results show that training and development, exit interview and employee records are the three human resource activities where compliance level are the lowest. It seems that the PCO has overlooked training and development and exit interview as the two human resource activities where compliance level are the lowest.

### Dynamics Between the PCO and IHRM

The PCO and IHRM share the same objective - to raise awareness, understanding and compliance of the provisions of the Ordinance among data users such as human resource practitioners. We think that the PCO and IHRM have developed a very close and cooperative relationship that is mutually beneficial. The PCO relies on IHRM to promote and assist human resource practitioners to understand and comply with the Ordinance; IHRM relies on the PCO to provide assistance in understanding the provisions of the Ordinance and in organizing training courses to its members.

### Dynamics Between IHRM and Human Resource Practitioners

We believe that IHRM has taken great initiative in assisting its members to understand and comply with the Ordinance. It has organized seminars introducing the provisions of the Ordinance to human resource practitioners and has prepared guidelines for its members. IHRM understands the needs of its members and has prepared the guidelines using the human resource activities perspective. All three banks find the guidelines useful.

However, none of the three banks sought IHRM's assistance in answering their queries. It seems that Association of Banks plays a more important role in



helping them to implement the provisions of the Ordinance.

IHRM believes that personal references, recruitment and access request of employee records are the three human resource activities where compliance level are relatively low. However, our results show that training and development, exit interview and employee records are the three human resource activities where compliance level are the lowest. It seems that IHRM has overlooked training and development and exit interview as the two human resource activities where compliance level are the lowest.

#### Comparison with Linowes' Survey Results

Regarding access to personal data, our interviews reveal that Hong Kong companies have a higher compliance level than those in the United States. As revealed by Linowes' survey, only 92% of corporations give employees access to personal records, only 76% of them allow employees to place corrections in their personal records and only 93% of them obtain written permission from individual when seeking information about him from a third party. While our interviews reveal that all three banks allow their employees to access and correct their personal records. Also, all three banks obtain consent from their prospective employees prior to sending reference checks.

Regarding use of personal data, Hong Kong companies still have some room for improvement similar to those in the United States. Linowes' survey revealed that only 62% of the respondents inform their staff of the types of records maintained and how they are used. While our interviews reveal that only Bank A and B require the employees to complete Job Application and Employee Records Forms so that the

employees know what type of records are being maintained. Moreover, only Bank A adds a statement in these forms to explicitly inform the employees of the purposes of collecting the data and that their information may be transferred to other parts of the group company.

Regarding collection of non-excessive data, we think that Hong Kong companies need to improve a lot for our interviews reveal that both Bank A and B have collected excessive data such as criminal records and spouses' occupation. While Linowes' survey revealed that 85% of the companies do not require the collection of arrest records of personnel.

In the United States, the Privacy Protection Commission's recommendations have been implemented for eighteen years, although not statutory. Many Fortune 500 corporations surveyed still do not have adequate policies to comply with the recommendations. Therefore, we are not surprised that the Hong Kong companies have not fully complied with the Ordinance given the short history of its enactment and enforcement. In our opinion, the current compliance level is acceptable.

## CHAPTER VII

### RECOMMENDATIONS

This chapter gives the recommendations for the PCO, IHRM and human resource practitioners.

#### Privacy Commissioner's Office (PCO)

The PCO should:

- focus its efforts in promoting understanding of the Ordinance's requirements at specific industry or functions such as the human resource profession;
- issue some practical guidance using the human resource activities perspective so that it would be easier for human resource practitioners to understand the guidelines;
- establish very close working relationship with private sector representative bodies, such as Association of Banks, in promoting preparation for compliance with the Ordinance;
- dedicate more manpower resource in monitoring and supervising data users' compliance with the Ordinance, and in inspecting data users' personal data systems;
- continue to cultivate a cooperative relationship with IHRM and organize more training courses targeted at the human resource practitioners;
- ascertain areas where compliance level are low and concentrate its effort in raising

compliance level in these areas;

- spend more efforts in promoting data subjects' rights under the Ordinance to data subjects and encourage them to lodge complaints if they find that their rights have been violated.

### The Hong Kong Institute of Human Resource Management (IHRM)

IHRM should:

- endeavor to play a more significant role in assisting human resource professionals, regardless of the industry they work in, to comply with the Ordinance as it is a human resource professional body;
- continue to cultivate a cooperative relationship with the PCO and organize more training courses to its members;
- organize some gatherings for its members so that they can share their experiences in implementing the provisions of the Ordinance;
- ascertain areas where compliance level are low and concentrate its effort in raising the compliance level in these areas among its members.

### Bank A, B and C

All three banks should:

- provide training on the company policy and procedure regarding data protection to all levels of staff;
- explain to their staff the purpose of information collected in the exit interview;
- stop asking excessive personal data such as criminal records of applicants for positions not involving valuable items, employment data of spouses and children, and performance references of prospective employees;



- retain personal data for a reasonable period of time;
- allow access to data at a reasonable charge;
- appoint a senior personnel to be Data Protection Officer who is responsible to ensure that the company's policies and practices comply with the Ordinance.

## CHAPTER VIII

### LIMITATIONS

There are two major limitations in this study. First, this study focuses only on the banking industry's compliance with the Ordinance in the human resource aspect. Although personal interviews are powerful tools in collecting information about the interviewees' opinions and reasons for behavior, they are very time-consuming. Hence, we have resources to conduct only three interviews on human resource practitioners. Although the banking industry is an important business sector in Hong Kong, its practices may not be representative of other industries such as construction or retail. However, we believe that as the company size of these three selected banks ranges from very large (30,000 staff in Hong Kong) to very small (50 staff in Hong Kong), the results can be used as a reference for practices adopted by companies with different sizes.

Second, we were not successful in obtaining samples through the random-sampling method. Due to the sensitivity of the privacy issue, certain human resource practitioners were reluctant to participate in this study. We finally obtained samples through referrals. We believe the fact that one of the authors knows the interviewee either directly or indirectly, and that the interviewees remain anonymous, has encouraged them to respond more honestly and frankly. The interviewees were also very willing to share their practices and opinions with us.

## CHAPTER IX

### CONCLUSIONS

The Ordinance has been enacted for more than two years and it has come into force for more than one year. This study found that human resource practitioners are aware of the Ordinance. Some of them have revised their companies' human resource policies and practices in order to comply with certain provisions of the Ordinance. However, not all of them are fully aware of the implications of the Ordinance on their profession.

The compliance level in the banking industry varies with the size of the company - large company's compliance level are relatively high while small company's compliance level are relatively low. Data storage and security, appraisal, and disciplinary records are the three human resource activities where compliance level are high. Great improvement is needed in the areas of training and development and exit interview.

All three banks have not encountered obstacles in complying with the Ordinance; they do not feel the pressure to fully comply with the Ordinance. One possible reason is that the PCO has not spent much effort in monitoring and supervising data users' compliance with the Ordinance. It has not inspected data users' personal data systems adequately. Thus, data users do not feel there is an urgent need to fully comply with the provisions of the Ordinance. Another possible

reason is that some employees may not be aware of their rights under the provisions of the Ordinance.

This study also found that the PCO and IHRM have been working very closely to raise awareness, understanding and compliance of the provisions of the Ordinance to organizations. However, IHRM does not play an important role in assisting the banking industry's human resource practitioners to comply with the provisions of the Ordinance. The banks rely more on Association of Banks.

When compared with Linowes' survey in 1995, this study revealed that Hong Kong companies' compliance level with the provisions of the Ordinance is acceptable given its short history. However, we believe that the compliance level could be raised if the PCO dedicates more manpower resources in monitoring and supervising data users' compliance with the Ordinance, and in inspecting data users' personal data systems. It should also issue some practical guidelines using the human resource activities perspective so that it would be easier for human resource practitioners to implement the Ordinance.

IHRM could also raise compliance level among its members by playing a more significant role in assisting human resource professionals, regardless of the industry they work in, to comply with the Ordinance. The banking industry should provide training on the company policy and procedure regarding data protection to all levels of staff.

We believe that the PCO, IHRM and human resource practitioners should ensure that the ultimate target - all Hong Kong companies fully comply with the Ordinance - is achievable soon so that all individual's right to privacy with respect to personal data are protected in Hong Kong.



## APPENDIX A

### QUESTIONNAIRE FOR PRIVACY COMMISSIONER'S OFFICE (PCO)

1. What has PCO done in promoting awareness and understanding of the provisions of the Ordinance? Any particular effort directed to the human resources profession? Any future plan in this regard?
2. Do human resources practitioners send their organizations' human resources policies related to personal data to PCO for review and comment? If yes, how does PCO handle such requests?
3. What has PCO done in promoting and assisting bodies representing data users (i.e. IHRM) to prepare codes of practice for guidance in complying with the provisions of the Ordinance? Any future plan in this regard?
4. Did PCO receive IHRM's "Guidelines on Personal Data Privacy"? Has PCO made any contributions during its preparation? What does PCO think about this guideline?
5. How does PCO monitor and supervise data users' (in particular, human resource practitioners in the banking industry) compliance with the provisions of the Ordinance in relation to the following human resources activities?
  - a) recruitment and selection
  - b) references
  - c) employee records (data provided by employees)
  - d) data relating to ex-employees
  - e) training and development
  - f) compensation and benefits
  - g) data storage and security
  - h) data transfer and transmission
  - i) appraisal and potential assessment
  - j) disciplinary records
  - k) exit interview
6. For which of the above human resources activities has PCO received relatively more queries regarding the Ordinance? What were the queries?
7. What are the general public's and human resources practitioners' awareness of and compliance level with the provisions of the Ordinance at the following times:
  - enactment 3 August 1995

- enforcement 20 December 1996
  - 1<sup>st</sup> quarter 1998
8. Has PCO inspected any personal data systems? Under what circumstances will PCO carry out such inspections?
  9. How does PCO assist employee to lodge a complaint? Is there any mechanism to protect complainants if they have concerns for their job security?
  10. How many complaints have PCO received? How many of them are human resources related?
  11. Among the various human resources activities mentioned in question 5, which three are impacted most by the Ordinance? Which three are impacted least?
  12. How would PCO rate its effectiveness in promoting the Ordinance?
  13. Do you think there are any other points we have missed?

APPENDIX B

QUESTIONNAIRE FOR  
THE HONG KONG INSTITUTE OF HUMAN RESOURCE MANAGEMENT  
(IHRM)

1. Does Hong Kong need a Personal Data (Privacy) Ordinance?
2. What has IHRM done in assisting its members to understand and comply with the Ordinance? Any future plan in this regard?
3. Do human resource practitioners send their organizations' human resource policies related to personal data to IHRM for review and comment? If yes, how does PCO handle such requests?
4. What were the members' feedback to IHRM's effort in promoting the Ordinance and assisting them to implement new policies and practices?
5. Has IHRM received any queries regarding the Privacy Ordinance? What were the members' concerns? How did IHRM respond to the queries?
6. Among the various human resource activities listed below, which three are impacted most by the Ordinance? Which three are impacted least?
  - a) recruitment and selection
  - b) references
  - c) employee records (data provided by employees)
  - d) data relating to ex-employees
  - e) training and development
  - f) compensation and benefits
  - g) data storage and security
  - h) data transfer and transmission
  - i) appraisal and potential assessment
  - j) disciplinary records
  - k) exit interview
7. What are the human resource practitioners' awareness of and compliance level with the provisions of the Ordinance at the following times:
  - enactment 3 August 1995
  - enforcement 20 December 1996
  - 1<sup>st</sup> quarter 1998

8. Do human resource practitioners face any obstacles in implementing the Ordinance?
9. How well has PCO done in promoting the Ordinance? Have they been helpful to IHRM?
10. What can PCO do to assist the human resource practitioners in understanding and implementing the Ordinance?
11. IHRM's mission is to maintain, develop and enhance professional standards in human resource management, covering quality, ethics and practices, and to increase the influence of human resource professionals, for the benefit of individuals and organizations in Hong Kong. In your opinion, how well has IHRM done with regards to promoting and giving guidance to its members?
12. Do you think there are any other points we have missed?



## APPENDIX C

### QUESTIONNAIRE FOR HUMAN RESOURCE MANAGERS

#### Policies on Personal Data Privacy

1. After the enactment of the Personal Data (Privacy) Ordinance, what actions have your company taken to comply with the Ordinance with respect to the following human resource activities?
  - a) Recruitment and Selection
  - b) References
  - c) Employee Records (Data provided by employees)
  - d) Data Relating to Ex-employees
  - e) Training and Development
  - f) Compensation and Benefits
  - g) Data Storage and Security
  - h) Data Transfer and Transmission
  - i) Appraisal and Potential Assessment
  - j) Disciplinary Records
  - k) Exit Interview

May we have a copy of these policies and the related documents adopted before and after the enactment? Including but not limited to:

- Job advertisement - Junior, Middle and Senior Level
- Reference Check
- Employment Application Form
- Employees Records
- Performance Appraisal
- Medical Form
- Employees Handbook
- Disciplinary Records

(Note : To ensure for confidentiality, we shall transform the document into non-formatted information in our project. You may also wish to provide us the copies anonymously.)

2. Does your company conduct training or seminars to educate staff about the Personal Data Privacy Policies?

### Recruitment and Selection

3. For how long do you keep the interview records of unsuccessful applicants?
4. If applicants request for access to their interview reports, under what circumstances would you accept/reject their request?

### Reference Check

5. How do you seek references from the potential candidate's past employers?

### Ex-employees Records

6. What type of Personal Data do you keep regarding ex-employees?

### Data Storage and Security

7. Where and how do you keep the Personal Data?
8. If the Personal Data are stored in a computer system, what is the security device to control access and to ensure proper back-up?

### Data Transfer and Transmission

9. How does your company protect against unauthorized or accidental transfer and transmission inside or outside the organization?

### Appraisal and Potential Assessment / Disciplinary Records

10. If the employees request for access to their assessment reports and criteria/disciplinary records, under what circumstances would you accept/reject them?

### Exit Interview

11. Could you describe the process of an exit interview?

### Others

12. What are the barriers in implementing the requirements and complying with the provisions of the Ordinance?

- 13. Is it a drain to your company’s manpower resources?
- 14. Is your company a member of the IHRM?
- 15. Have your company got the guideline issued by the IHRM? Do you find it useful?
- 16. How do you find PCO and IHRM are doing? Have your company sought assistance from them? Please specify.
- 17. Out of the human resource activities as per Q.1, which three do you think are impacted most by the Ordinance? Which three are impacted least? Please rank and write the letter.

<u>Impacted Most</u>	<u>Impacted Least</u>
1st (    )	1st (    )
2nd (    )	2nd (    )
3rd (    )	3rd (    )

- 18. Looking at the time line of the development of the Ordinance, how would you assess your compliance level?

enactment	3rd August, 95	_____ % compliance
enforcement	20th December, 96	_____ % compliance
present	1st Quarter, 98	_____ % compliance

- 19. Have your company ever received any complaints from your employees, ex-employees, IHRM and/or PCO regarding non-compliance? Please specify.
- 20. Do you think there are any points we have missed?

## APPENDIX D

BANK A  
JOB ADVERTISEMENT**ASSISTANT COMMUNITY RELATIONS MANAGER****A CHALLENGING AND REWARDING ROLE WORKING ON PROJECTS IN  
THE HONG KONG COMMUNITY**

XX Bank has always played a leading role in the community and, through the XX Bank Foundation, we are continuing our hands-on support . . . You will be the spokesman for your projects as well as coordinating ceremonies, writing articles and preparing displays.

You should be a degree holder with at least five years' experience, ideally gained in . . . with two to three years exposure in . . . position requires exceptionally high standards of spoken English, Cantonese and Putonghua, and written English and Chinese, as well as experiences in drafting and translation.

**Please write with full education and career details, including present and expected salaries, quoting the appropriate reference to . . . HR Department, XX Bank, XX, XX Road, XXX, Kowloon, Hong Kong SAR.**

*Data held by the Bank relating to employment applications will be kept confidential and used only for processing applications. Applicants who are not contacted within four weeks may consider their applications unsuccessful. The Bank will retain their applications for a maximum period of one year and may refer suitable applicants to other vacancies within the Group.*

**XX BANK**



## APPENDIX E

BANK A  
JOB APPLICATION FORM

*It is necessary for applicants to supply the Bank data about themselves and failure to supply such data will result in the Bank being unable to process employment applications.*

**Personal Particulars**

Name  
Other Name(s)  
Name in Chinese  
Date of Birth  
HK ID Card No.  
Correspondence Address  
Home Tel No.  
Contact Tel No.

**Members of Immediate Family**

Any immediate relative(s) working in a bank or other company where its business may cause conflict of interest?

**Others**

From where did you learn about this vacancy?

- XXX Bank Staff (Name/ Staff No./Department/Branch)
- Branch Poster
- Family Members / Relatives / Friends
- Newspaper (please specify - e.g. Oriental Daily News)
- Others (please specify)

**Academic Qualifications**

Name of School or College  
Date (From/To)  
Class Attended (From/To)  
Certificate(s) Obtained

**Working Experience**

Company Name  
Date (From/To)  
Position Held  
Salary  
Reason for Leaving

**Others**

Have you had any criminal record?  
Expected Salary  
Date available to report for duty if employed

Signature & Date

**Declaration**

*I certify that the information provided is true and can be treated as part of any subsequent contract of employment. I also understand that data held by the Bank relating to me will be kept confidential but the Bank may provide such information to any other person under the duty of confidentiality to the Bank including a group company of the Bank which has undertaken to keep such information confidential.*

APPENDIX F

BANK A  
RECRUITMENT APPRAISAL FORM

**Section A: Personal Details**

Job Application No.  
Received Date  
Name of Applicant  
Sex\*  
Identity Document Number\*  
Education Level\*  
Job Applied

**Section B: In-house Test(s)**

Selection Test(S)  
- Date  
- Time  
- Arrival Time  
- Results

**Section C: Interview Details**

- Date  
- Time  
- Arrival Time  
- Interviewer  
- Results  
- Medical Check-up Date

**Section D: Job Related Criteria**  
(Poor, Marginal, Acceptable, Good)  
- Appearance  
- Attitude  
- Common Sense  
- Responsiveness  
- Confidence  
- English (Spoken/Understanding)

**Section E: Years of Past Experience**

- Clerical  
- Customer Service  
- Secretarial  
- Non-clerical

**Section F: Information for Posting**

- Flexible Location  
- Overtime Work  
- Shift Duties  
- Typing Skill  
- PC Skill  
- Commercial Training  
- Uniform

**Section G: Interviewers Comments/Remarks**

**1st Interview:**  
**2nd Interview:**  
**3rd Interview:**

**Interviewers (Signature & Full Name)**

**Date:**

\* Deleted to comply with the Discrimination Ordinance.

APPENDIX G

BANK A  
OLD GUIDELINE FOR A REFERENCE LETTER

The referee should be your friend (not relative) and is one of the following:

- manager/senior executive of a company; professionals
- owner of a shop/company

The referee may chose to complete the Character Reference Form or write a letter to the Bank with the following details:

- the letter should be addressed to the Human Resources Department of the XX Bank.
- the letter should contain information about the applicant’s conduct and character.
- the letter should be signed by the referee with a copy of his/her H.K.I.D. card and business card attached.
- information of the referee, such as name, address and telephone number should be provided.

For enquiries, please contact Mrs. XX at XXXX-XXXX.

CHARACTER REFERENCE FORM

Details of the Applicant

- Name
- H.K.I.D. No.

Character Assessment

- (Outstanding, Very Good, Good, Fair, Poor)
- Co-operativeness
  - Courtesy
  - Concern for others
  - Diligence
  - Honesty

Details of the referee

- Name
- H.K.I.D. No.
- Telephone No.
- Address
- Enclosed H.K.I.D. Card and Business Card

Referee (Signature and Date)

APPENDIX H

BANK A

CONSENT FROM APPLICANT

TO OBTAIN REFERENCE FROM CURRENT EMPLOYER

To :       Human Resources Manager  
          Human Resources Department  
          XX/Floor, Tower XX  
          XX Road, XXX  
          Kowloon, Hong Kong.

I hereby consent to the required employment reference check with my previous/current employer(s) in relation to my application for employment in XXX Bank.

- 1) Name of Applicant : \_\_\_\_\_
- 2) H.K.I.D. Card No. : \_\_\_\_\_
- 3) Signature of Applicant : \_\_\_\_\_
- 4) Date : \_\_\_\_\_



APPENDIX I

BANK A  
EMPLOYMENT REFERENCE

To : Human Resources Manager  
Human Resources Department, XX Bank

- A. Personal Particulars
- Name of Candidate : Chan XX
  - H.K.I.D. No. : DXXXXXXX(3)
  - Name of Employer : XX Bank
  - Period of Employment : From 9/95 to 3/98
  - Last Position Held : Senior Investment Officer
  - Last Basic Salary (Per month) :
  - Guaranteed Bonus :
  - Discretionary Bonus :
  - Other Cash Allowance (Please specify) :
- B. Comments on Performance  
(Excellent, Good, Satisfactory, Below Average)
- Job Performance
  - Work Attitude
  - Relationship with People
  - Conduct
  - Integrity
- C. Reasons for Leaving
- D. Additional Comments

---

Signature (with Company Chop)

## APPENDIX J

### BANK A GUIDELINES ON ISSUING EMPLOYMENT REFERENCE

To : All staff of Human Resources Department

The following are the guidelines regarding issuing employment reference:

1. Human Resources Department should continue to be the central department for issuing employment reference.
2. Human Resources Department only issues standard Certificate of Employment which describes the employment history of a staff member with the Bank.
3. No qualitative comment on job performance of ex-staff should be provided.
4. The following standard policy statement should appear in the Certificate of Employment: "It is the Bank's policy not to provide performance reference to prospective employer. In accordance with the Personal Data (Privacy) Ordinance, performance appraisals of an individual can be provided to him/her at his/her request."
5. Line manager should not use Bank's letterhead to issue personal reference for their colleagues or subordinates.

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Authorized Signature  
XXX XXX  
XX Bank

## APPENDIX K

BANK A  
EMPLOYEE PERSONAL RECORD FORM

*It is necessary for applicants to supply the Bank data about themselves and failure to supply such data will result in the Bank being unable to process employment applications.*

**Personal Details**

Name in English / Chinese  
Other Name(s)  
Date & Place of Birth  
Marital Status  
HK ID Card No.  
Correspondence Address  
Home & Office Tel No.

**Emergency Contact Person**

Name & Relationship  
Tel No. & Address

**Family Details**

Spouse Name & H.K.I.D.No.  
Date of Marriage  
Occupation & Employer  
Next-of-kin Name & H.K.I.D.No.  
Relationship & Address  
Occupation & Employer/School  
Children Name, Sex, Date of Birth  
Occupation & Employer/School

**Professional Qualifications**

Are you a member of any  
Association/Society? Membership No?

**Academic Qualifications**

Name of School or College  
Date (From/To)  
Class Attended (From/To)  
Certificate(s) Obtained and Year

**Working Experience**

Company Name  
Date (From/To)  
Position Held  
Salary  
Reason for Leaving

**Others**

Have you had any criminal record?

Do you have any physical or mental condition that you would like the Bank to take into consideration to assist you in any way to carry out your duties?

**Other Special Skills/Interest**

Type of Skill  
Qualifications  
Hobbies, Sports & Other Interest

Employee (Signature & Date)

**Declaration**

*I certify that the information provided is true and can be treated as part of any subsequent contract of employment. I also understand that data held by the Bank relating to me will be kept confidential but the Bank may provide such information to any other person under the duty of confidentiality to the Bank including a group company of the Bank which has undertaken to keep such information confidential.*

## APPENDIX L

## BANK A

NOTIFICATION OF CHANGE OF PERSONAL PARTICULARS /  
QUALIFICATION ACQUIREMENT

To : Human Resources Department

Please change my personal record for the following (list change items only):

**Personal Particulars**

Name

Passport No. &amp; Issuing Country

Address

HK ID Card No.

Change of Salary Account

Nationality

Marital Status

Home &amp; Office Tel No.

**Qualifications Acquirement**

Newly Acquired Qualification/Skill

Country where skill is acquired

Date (From/To)

**Other Membership Attained**

Name of Association / Society

Date Joined / Left

**Emergency Contact Person**

Name

Tel No. &amp; Address

**Family Particulars**

Spouse Name &amp; H.K.I.D.No.

Date of Marriage

Occupation &amp; Employer

Birth of Child &amp; Sex

Date of Birth of Child

Next-of-kin Name &amp; H.K.I.D.No.

Relationship &amp; Address

Employee Name &amp; Staff Number (Signature &amp; Date)



APPENDIX M

BANK A  
ACCESS TO PERSONAL RECORDS UNDER  
THE PERSONAL DATA (PRIVACY) ORDINANCE

Under the new Personal Data (Privacy) Ordinance, current staff and ex-staff have the right to access their personal data in the personal files. The Bank decided to charge for retrieval of documents from personal files. The charges include a Service Charge of \$200 and \$15 per page for copies of documents.

To balance the charges against employee relation consideration, we stipulate the following guidelines regarding charges:

**Category of Documents**

Documents are classified into two groups:

1. *Reference Documents* are documents to certify employment information, such as reference letters, certificate of service and letters to various outside organizations certifying details of employment period, position, salary etc.’
2. *Document Copies* are copies retrieve directly from paper, image or electronic personal files, such as staff record printout, copies of appraisals, academic certificates.

**Guidelines**

- To preserve good employee relations, we will continue to provide all documents at no charge to current employees.
- For ex-employee of the Bank, we will continue our service of providing reference documents to them or other organizations free of charge. Charges will be effected on document copies as they fall outside the boundary of what we consider to be reasonable as a service to ex-employees.

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Authorized Signature  
XXX XXXX  
XX Bank

## APPENDIX N

### BANK A

#### NOTICE RELATING TO THE PERSONAL DATA (PRIVACY) ORDINANCE

1. It is necessary for applicants for employment with the Bank to supply the Bank with data about themselves in connection with their application.
2. Failure to supply such data will result in the Bank unable to process employment applications.
3. If an application for employment is successful, data about employees may also be collected from employees during the period of their employment with the Bank.
4. The purposes for which data relating to employees and potential employees may be used are as follows-
  - processing employment applications;
  - reviewing salaries, bonuses and other benefits;
  - consideration for promotion, training, secondment or transfer;
  - consideration of eligibility for staff loans;
  - providing employee references; and
  - purposes relating thereto.
5. Data held by the Bank relating to employment applicants and employees will be kept confidential but the Bank may provide such information to:-
  - any agent, contractor, or third party service provider who provides administrative, telecommunications, computer or other services to the Bank in connection with the operation of its business;
  - any other branch of the Bank;
  - any other person under a duty of confidentiality to the Bank including a group company of the Bank which has undertaken to keep such information confidential; and

- persons seeking employee references.
6. Under and in accordance with the terms of the Ordinance any individual:-
- has the right to check whether the Bank holds data about him and the right of access to such data;
  - has the right to require the Bank to correct any data relating to him which is inaccurate;
  - has the right to ascertain the Bank's policies and practices in relation to data and to be informed of the kind of personal data held by the Bank.
7. In accordance with the terms of the Ordinance, the Bank has the right to charge a reasonable fee for the processing of any data access request.
8. The person to whom requests for access to data or correction of data or for information regarding policies and practices and kinds of data held are to be addressed is as follows:-

Systems & Salary Administration Manager  
Human Resources Department  
XXX Bank  
XX/Floor, Tower X  
20, XXX Road, XXX,  
Kowloon, Hong Kong.

Telephone : XXXX-XXXX  
Fax : XXXX-XXXX

19 December, 1996

**Notice Relating to the  
Personal Data (Privacy) Ordinance**

To : Head of Human Resources Department

I have received a copy of the Notice Relating to the Personal Data (Privacy) Ordinance (issue date 19 December 1996) and understand the code of practice stated therein.

Full Name (in Block Letters)	Date	Signature	Staff Number
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APPENDIX O

BANK A

PERFORMANCE APPRAISAL FORM

To : Human Resources Department

**Personal Particulars**

Name & Staff No.  
Position Held  
Managers' Name  
Position Held  
Department Head's Name

**Performance Appraisal**

Date  
Year of Performance Appraisal  
Objective Settings  
Criteria for Success  
Evaluation & Assessment  
Assessment on Competencies

**Training & Development Needs**

Past Training Records  
Academic & Technical Qualifications  
Skill levels  
Management Training Needs  
Technical Training Needs  
Personality Training Needs  
Customers Service Training Needs

**Overall Assessment**

Performance Ratings  
Promotion Recommendation  
Job Rotation Recommendation  
Other Comments

Appraiser's Comments

(Signature & Date)

Appraisee's Comments

(Signature & Date)

Department Head Endorsement

(Signature & Date)

APPENDIX P

BANK B  
JOB ADVERTISEMENT

**CLERKS / TELLERS**

- at least 5 subjects passed in HKCEE including Chinese and English
- preferably one to two years' experience
- knowledge of PC is an advantage

Attractive salary plus a comprehensive package of fringe benefits such as free lunch, medical scheme, low interest staff housing loan, married staff quarters and non-contributory pension/leaving benefits scheme.

Please send your full C.V. to Ms. XXXX Chan, Human Resources Manager at XXX/Floor, XXX Road, XXX, Kowloon, Hong Kong.

**XX BANK**

## APPENDIX Q

BANK B  
JOB APPLICATION FORM**Personal Particulars**

Name  
 Name in Chinese  
 HK ID Card No.  
 Correspondence Address  
 Home Tel No.  
 Contact Tel No.

Have you had any criminal record?  
 (Please specify)

**Application Related Information**

Job Applied for  
 Expected Salary  
 Date Available to Report Duty  
 Did you work with the Bank before?

**Others**

Typing Speed  
 PC Skills  
 Language (Spoken & Written)  
 Hobbies

**Academic Qualifications**

Name of School or College  
 Date (From/To)  
 Class Attended (From/To)

**Professional Qualifications**

Name of Association  
 Year of Joining the Association  
 Qualification Attained

**Working Experience**

Company Name  
 Date (From/To)  
 Position Held  
 Reason for Leaving

**For Personnel Department Use**

First Interview Date & Results  
 Second Interview Date & Results  
 Written Test Date & Results  
 Medical Records  
 Employment Decision

Applicant

(Signature &amp; Date)

*Declaration*

- *I understand I should abide by the Bank's rules if employed, and my salary and bonus will be automatically deposited to my bank account opened in Bank B.*
- *If considered by the Bank as necessary, I understand that my personal data as referred to in the above will be transferred to the other divisions of the Bank.*
- *I understand that my data as referred to in the above will not be retained by the Bank if my application is unsuccessful.*

APPENDIX R

BANK B  
CONSENT TO OBTAIN EMPLOYMENT REFERENCE

Date : \_\_\_\_\_

Our Ref. : XXX/98

The Personnel Manager  
XXX Bank Ltd.  
XX Road, XXX  
Kowloon, Hong Kong

Dear Sir

Ms. Wong XXX  
I/D Card No. GXXXXXXX(5)

The above-named has applied for a position with our bank. In order to enable us to finalize the appointment, we would be grateful if you could provide us information concerning the above-named by completing the enclosed form.

We assure you that all information rendered by you will be treated in strict confidence.

We thank you your kind co-operation.

Yours faithfully,

Authorized Signature  
Personnel Department

-----  
You are hereby authorized to give XX Bank Ltd. all information regarding my services, character, and conduct while in your employ, and you are released from any and all liabilities which may result from furnishing such information.

\_\_\_\_\_  
(Wong XX)



APPENDIX S

BANK B

EMPLOYMENT REFERENCE FORM

PRIVATE & CONFIDENTIAL

The Personnel Manager  
Personnel Department  
Bank B Ltd.  
Hong Kong

Employment Reference of :       Ms. Wong XX

Period of Employment :       6/1993 to 3/98

Position Held :                Teller

Salary : \_\_\_\_\_ Allowance : \_\_\_\_\_

Reason for Leaving : \_\_\_\_\_

Please tick as appropriate :

Assessment	Satisfactory	Average	Unsatisfactory
Performance			
Accuracy			
Initiative			
Co-operativeness			
Attitude			
Punctuality & Attendance			
Conduct			

Other Comments : \_\_\_\_\_

Signed \_\_\_\_\_  
Name \_\_\_\_\_  
Date \_\_\_\_\_ Position \_\_\_\_\_

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